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*NOT ADMITTED TO THE NEW YORK BAR

June 25, 2020

VIA ECFHonorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

I. Background

Since my June 18, 2020 report to the Court, I have had a joint call with counsel for Federal Defenders, Inc., along with their representatives and with counsel for the Government and representatives of the Metropolitan Detention Center ("MDC") and

Metropolitan Correctional Center (“MCC”). I have also spoken separately with counsel for MDC and MCC.¹

This week, my conversations with the Federal Defenders and the Government have focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The handling of legal mail at both institutions.
3. Plaintiffs’ desire to increase both the length and number of available videoconferences currently available at both institutions.
4. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.

I have also received and reviewed the reports submitted by the parties on June 24, 2020. *See* ECF Nos. 73 & 74. My discussions with the parties this week were substantive and productive. We discussed issues concerning in person visits and issues concerning legal mail. Both parties are prepared to discuss these issues at the June 26, 2020 telephone status conference.

II. Telephonic Contact

This was the tenth week in which the parties scheduled and facilitated legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF No. 70.

A. MCC

According to the information I have from MCC, MCC received ninety-one requests for phone calls since June 19, 2020. Eighty calls were completed, eight calls were attempted but not completed, and one was cancelled at the attorney’s request. There were two calls for which we do not have completion information and I have followed up with the institution for more information.

B. MDC

MDC received 114 call requests from June 19 to June 23, with call logs from June 24 not available at the time of this report. 101 of these were completed and

¹ We held a joint call on June 25, 2020. I also spoke with MDC and MCC on June 25, 2020.

five were attempted but not completed. There were eight calls for which we do not have completion information and I have followed up with the institution for more information.

III. Videoconferencing

A. MCC

According to MCC's records, there were twenty-four videoconferences scheduled to take place this week. Twenty-four were completed as scheduled

B. MDC

According to MDC's records, there were twenty videoconferences scheduled to take place this week using MDC's VTC units. Twenty were completed as scheduled. There were three videoconferences scheduled to take place this week using the videoconference system at the Brooklyn courthouse. Those three were also completed as scheduled. The parties will work together to utilize available VTC time scheduled for the courthouse unit with the MDC based units, where possible. Federal Defenders has raised a privacy concern with one videoconference, wherein defense counsel could hear an adjacent videoconference, raising concerns about their privacy as well. That information has been provided to the government for further review.

IV. In-Person Legal Visits

The parties continue to discuss the issues surrounding the resumption of in-person visiting. Last week Federal Defenders provided a detailed summary of procedures that would assist the defense bar with the resumption of in-person visiting. The government previously indicated that several of the procedures were already under consideration by the institutions and, without providing guarantees of inclusion, all would be considered. This week the government advised that both institutions continue to work towards re-opening plans, which plans still require approval at the regional or national level. The parties have been able to discuss certain likely procedures within the context of mediation, although the government is awaiting final approval before plans can be announced publicly. Once the institutions are advised they may re-open, the government anticipates a transition period during which they will have further discussions with Federal Defenders about plan specifics. This will provide additional opportunity for Federal Defenders to provide feedback and input.

V. Legal Mail

The MDC has advised that they have spoken with staff involved in handling legal mail and reiterated the appropriate guidance. Federal Defenders has advised that they continue to hear of instances where legal mail is not handled appropriately. Where possible, Federal Defenders will provide specific information regarding these instances so that the government can look into them. I will continue to monitor this issue.

Respectfully,

/s/ Loretta E. Lynch
Loretta E. Lynch

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